

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 20

March 4, 1998, 10:31 am
Page S-1305 Temp. Record

HIGHWAY REAUTHORIZATION (ISTEA)/Mandate on Drunk-Driving Definition

SUBJECT: Intermodal Surface Transportation Efficiency Act of 1997 . . . S. 1173. Lautenberg/DeWine amendment No. 1682 to the committee modified substitute amendment.

ACTION: AMENDMENT AGREED TO, 62-32

SYNOPSIS: As reported, S. 1173, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1997, will reauthorize for 6 years the Federal-aid highway, highway safety, and other surface transportation programs. A total of \$145 billion will be authorized, which represents a 20-percent nominal and 5-percent real increase over the previous 6-year authorization. (Due to a filibuster, S. 1171 was returned to the calendar last year, and Congress passed S. 1519 to provide a 6-month extension of the highway bill instead.)

The committee modified substitute amendment would make changes to correct certain technical violations of the Budget Act. (Initially, the bill had been reported with technical amendments; when the bill was under consideration last year (see 105th Congress, 1st session, vote Nos. 271-272, 275, 277-278, and 282), those amendments were consolidated by unanimous consent into a single perfecting amendment. When the Senate resumed debate on the bill this year, the amendment was modified to be a substitute amendment, and other pending amendments that filled parliamentary openings for offering amendments were withdrawn.)

The Lautenberg/DeWine amendment would penalize any State that did not pass and enforce a law establishing a blood-alcohol level of .08 percent as the threshold for determining whether individuals were driving while intoxicated (or any equivalent offense that carried the highest penalty in the State for operating a motor vehicle after having consumed alcohol). A State that did not adopt such a law by fiscal year (FY) 2002 would lose 5 percent of its FY 2002 highway apportionment funds, and would lose 10 percent of such funds for each subsequent fiscal year it failed to have in place such a law. If a State had funds reduced in FY 2002, and then came into compliance before the end of the fiscal year, it would receive any of the withheld funds that remained available.

Those favoring the amendment contended:

(See other side)

YEAS (62)			NAYS (32)		NOT VOTING (4)	
Republicans (26 or 50%)	Democrats (36 or 86%)		Republicans (26 or 50%)	Democrats (6 or 14%)	Republicans (2)	Democrats (2)
Abraham	Akaka	Kerrey	Allard	Bryan	Jeffords ⁻²	Glenn ⁻²
Bond	Biden	Kerry	Ashcroft	Feingold	Roberts ⁻²	Inouye ^{-2PY}
Chafee	Bingaman	Kohl	Bennett	Ford		
Coats	Boxer	Lautenberg	Brownback	Graham		
Collins	Breaux	Leahy	Burns	Landrieu		
Coverdell	Bumpers	Levin	Campbell	Reid		
D'Amato	Byrd	Lieberman	Cochran			
DeWine	Cleland	Mikulski	Craig			
Domenici	Conrad	Moseley-Braun	Enzi			
Faircloth	Daschle	Moynihan	Grams			
Frist	Dodd	Murray	Grassley			
Gorton	Dorgan	Reed	Gregg			
Gramm	Durbin	Robb	Hagel			
Hatch	Feinstein	Rockefeller	Hutchinson			
Helms	Harkin	Sarbanes	Inhofe			
Hutchison	Hollings	Torricelli	Kempthorne			
Lugar	Johnson	Wellstone	Kyl			
McConnell	Kennedy	Wyden	Lott			
Murkowski			Mack			
Roth			Nickles			
Shelby			Santorum			
Smith, Gordon			Sessions			
Snowe			Smith, Bob			
Specter			Thomas			
Stevens			Thompson			
Warner			Thurmond			

LIVE PAIRS:
Present and Giving: Baucus-PN
Receiving: Inouye-PY

VOTING PRESENT(1)
McCain

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

This amendment would create a national definition for drunk driving--a blood-alcohol level of .08 percent or more. This definition will save lives. We appreciate our colleagues' concern for States' rights, but the reality is that no one with a blood-alcohol level of .08 percent or more should be behind the wheel of a car. We are not talking about social drinkers--a 170-pound man would have to drink 4.5 beers in 1 hour on an empty stomach to reach this definition of being drunk. The National Highway Traffic Safety Administration (NHTSA) reports that in single-vehicle crashes the relative fatality risk for drivers with a blood-alcohol content between .05 and .09 is 11 times greater than for drivers with a blood-alcohol content of 0. At .08, drivers' speed control, braking, steering, gear changing, lane tracking, judgment, and attention are all measurably impaired. The medical evidence is clear and consistent--having a level of .08 is dangerous. It is equally dangerous in every State. People who are driving from State to State should not be at risk due to a patchwork of drunk driving laws that put them at danger of being hit by drunks who are driving legally, but who would be arrested for drunk driving if they were in another State. Currently, 15 States have lowered their definition for drunk driving to .08 percent. Those 15 States report a 16 percent decline in alcohol-related traffic fatalities.

The alcohol and restaurant industries oppose this amendment because they fear it would reduce alcohol sales. Though it would not make the slightest difference to us if that were the case, the reality, based on experience, is that this amendment would not hurt either industry. One study of four States with .08 laws found virtually no effect on alcohol consumption. This amendment is not about stopping drinking, or even drinking to wretched excess; it is only about stopping drinking and driving.

Overall, the number of traffic fatalities per vehicle miles traveled has declined over the past several decades by 75 percent, mostly due to improved road conditions and safer cars. Most such improvements that will reduce traffic deaths have already been made--if the decline in traffic deaths is going to continue, it is going to have to come from efforts to improve the personal behavior of drivers. The worst and most inexcusable behavior that needs to be stopped is drunk driving. In 1996, more than 17,000 lives were lost from alcohol-related crashes. In total, 41 percent of traffic deaths were related to drunk driving.

Alcohol-related crashes cost society over \$45 billion every year. One alcohol-related fatality is estimated to cost society about \$950,000, and an injury averages \$20,000. The human costs, though, are immeasurable. Tens of thousands of Americans have been hit and killed by drunk drivers. Each one of those innocent people was somebody's parent, or spouse, or child. Probably every Senator has lost a close family member or friend to a drunk driver. We cannot bring back anyone whose life has already been taken, but we can, and must, stop more innocent people from being killed.

In 1984, Congress joined President Reagan in establishing a national minimum drinking age of 21. Passage of that measure has saved an estimated 10,000 lives to date. Passage of this amendment will save thousands of more lives. Most of the industrialized world already has set .08 (or a lower level) as the legal definition for drunk driving. Numerous highway safety, insurance, automobile manufacturer, and citizens' groups strongly support this amendment. We urge our colleagues to support it as well.

Those opposing the amendment contended:

Our colleagues are correct. States should set the drunk-driving limit at .08 percent. If we were State legislators, we would support such laws, and we would support even lower limits than .08. However, we are not State legislators, and it is not our business to tell States what laws they must pass. Our colleagues' amendment, in effect, would require States to pass laws setting the drunk-driving limit at .08 percent, so it is not supportable.

The tenth amendment states that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." We take that amendment seriously. The Constitution does not give the Federal Government the right to dictate the criminal laws that State and local governments must adopt. Granted, this amendment would not expressly require States to comply. Instead, it would punish them severely for not complying. Each State would have a choice--pass a .08 limit or lose 10 percent of its highway funds. The "choice" offered by this amendment is no choice at all--every Senator is well aware that every State would be forced to pass a .08-percent law because no State could afford such a huge penalty.

In 1984 a law was passed to pressure States into raising the drinking age to 21. Some of us who were here then opposed that law for the same reasons that we are opposing this amendment. Others of us supported it because we thought that there was a legitimate interstate problem at issue. Teens who could legally drink in a neighboring State but not their own could and would cross the border, drink, and drive back into the State in which they were banned from drinking. In this case, though, no such interstate rationale for acting exists. People do not cross borders to drink because one State has a .1 limit and another has a .08 limit.

We do not come to this decision lightly. We too have had our loved ones killed by drunk drivers. If this amendment said that States should adopt a .08 blood-alcohol content limit, or if it increased the bonuses this bill already will give to States that pass such laws, we would strongly support it. However, we cannot support punishing States by imposing huge fines if they do not adopt the laws we tell them to adopt. This amendment violates States' rights, so we reluctantly must oppose it.